IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO. 82 OF 1999

Damaodar Changdev Kalankar. ... Applicant.

V/s.

Rajendra S/o. Sakharam
Sukale and another. ... Respondents.

Ms.Anita Agarwal for the applicant.

Mr.Banerjee i/b. Ganesh Gole for respondent No.1.

K.V.Saste, APP for respondent No.2- State.

CORAM: V.C.DAGA, J.

DATED: 6th August 2007.

P.C.:

. Heard learned counsel for the applicant and leaned A.P.P. For the State.

. Perused revision application.

2. This revision application is directed against the judgment and order dated 4th September, 1998 passed in Sessions Case No.15/1989 by the Additional Sessions Judge, Thane, whereby the learned Sessions Judge was pleased to acquit the accused of the offences punishable under sections 498-A, 302, 304-B read with section 34 of Indian Penal Code and section 4 of Dowry Prohibition Act.

3. The learned counsel appearing for the

applicant- complainant has taken me through the entire judgment and the evidence available on record. He submits that the respondent No.1- accused- husband practised cruelty on his deceased wife. He submits that death of deceased- wife was caused by burns and that before her death she was subjected to cruelty by her husband because his demands were not met. As such, according to him, it clearly amounted to dowry death. He, therefore, prayed for setting aside the impugned order.

4. I have gone through the evidence available on record, impugned judgment and findings recorded therein. The entire case of the applicant revolves around the appreciation of evidence. The trial Court has rightly appreciated the evidence available on record and recorded acquittal in favour of the accused.

5. In my opinion, on proper appreciation of evidence acquittal of the accused is recorded by the trial Court. In the case of **C.P.Fernandes v. Union territory of Goa, Daman & Diu**, AIR 1977 SC 135, the Apex Court has ruled that the Court should not interfere with the trial Court view unless found to be unreasonable or perverse. If two views are possible on the basis of evidence on record, the higher Court should not disturb the findings of the trial Court is

the settled law (see **Varghese Thomas v. State of Kerala**, 1977 SC 701).

6. This Court not being a Court of appeal cannot substitute its view in exercise of revisional jurisdiction. Revisional jurisdiction is not only limited in scope but also is discretionary. The Court interferes in the revisional jurisdiction only in exceptional cases of flagrant miscarriage of justice as held by Apex Court in the case of **State of Rajasthan v. Gurucharandas Chaddha, AIR 1979 SC 1895.**

7. Having examined the legal position, no fault can be found either with the appreciation of evidence or with the view taken. The view taken by the trial Court is reasonable and possible view in the facts and circumstances of the case which can be supported on the basis of evidence on record. No perversity or unreasonable approach on the part of the trial Court could be pointed out by the applicant.

8. In the above view of the matter, no case is made out to entertain this revision application. The same is dismissed in limine with no order as to costs.

JUDGE